IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN
WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 30560 of 2004(K)

OS.826/1997 of III ADDL. M.C.,THRISSUR

PETITIONER:

ROSSA @ SOSAMMA, W/O.KANNANAIKKAL
PAILOTH, AGED 78 YEARS, HOUSE NO.867,
WARD NO.IX, NEAR MATHA MARIYAM VALIYA PALLI,
THRISSUR VILLAGE, THRISSUR TALUK.

BY ADV. SRI.A.X.VARGHESE

RESPONDENTS:

1. KALDHAYA SYRIYANI CHURCH, THRISSUR,
THRISSUR TALUK, REPRESENTED BY TRUSTIES.

2. PAUL, S/O.MULAKKAL INASU,
CHELAKKATTUKARA DESOM, CHIYYARAM VILLAGE.
THRISSUR TALUK.

3. JOHNSON, S/O.ARIMBUR MOOPPAN
ANTHAPPAN, CHEMBUKAVU VILLAGE, DESOM,
THRISSUR TALUK.

4. THOMAS, S/O.MAPRANAM ANTHAPPAN,
KURIYACHIRA DESOM, CHIYYARAM VILLAGE,
THRISSUR TALUK.

5. PAUL.C.JOSEPH, S/O.CHEERAMBAN JOSEPH,
RESIDENCE AT THRIPPAKULAM LANE,
CHEMBUKAVU VILLAGE, THRISSUR TALUK.

6. IGNETIOUS, S/O.KAIMANGALATHUKKARAN
ANTONY, RESIDENCE AT THRIPPAKULAM LANE,
CHEMBUKAVU VILLAGE, THRISSUR TALUK.

7. JOSEPH JOHNY, S/O.KANNKAPPADAN JOSEPH,
CHIYYARAM VILLAGE, THRISSUR TALUK.

8. INASU, S/O.OLLUKKARAN JACOB,
KUNNATHUMKARA DESOM, OLLUKKARA VILLAGE,
THRISSUR TALUK.

9. ANTONY, S/O.CHOVVUKKARAN DEVASSY,
CHERUR DESOM, VILVATTOM VILLAGE,
THRISSUR TALUK.

BY ADV. SRI.S.V.BALAKRISHNA IYER
SRI.K.JAYAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE ORDER DTD.16.2.1999 IN I.A.1214/1998 IN O.S.826/97 OF THE III ADDL.MUNSIFF, THRISSUR.

EXT.P2 PHOTOCOPY OF THE JUDGMENT IN O.S.826/97 DTD.15.11.1999 OF THE III ADDL.MUNSIFF COURT, THRISSUR.

EXT.P3 PHOTO COPY OF THE JUDGMENT DTD.28.2.2004 IN A.S.352/2000 OF THE IST ADDITIONAL DISTRICT COURT, THRISSUR.

TRUE COPY

P.A.TO JUDGE

M.N. KRISHNAN, J.

WP(C).No. 30560 OF 2004 K

Dated this the 20th June, 2007.

JUDGMENT

This writ petition is filed seeking a direction to the Additional Munsiff Court, Thrissur to allow the petitioner to continue in the decree schedule premises till her death. The prayer is against the judgment and decree of the court below. As per the decree dated 15.11.1999 the present writ petitioner is directed to surrender vacant possession of the suit property to the plaintiff-church and there was a direction to the plaintiff-church to give the maximum time for vacating the premises. Against that A.S.352/05 was filed before the District Judge, Thrissur and the learned District Judge dismissed the appeal. Now the decree holder has moved an application for delivery of the property and it is at that time the writ petitioner has come forward with this petition. One of the Hon'ble Judges of this Court wanted the church authorities to find out what can be done with his old lady and the church authorities submitted that they are ready and willing to accommodate the petitioner in its old-age home till she dies. Therefore, in order to obtain the instructions from the lady the case has been postponed on the last 3-4 occasions. But the counsel for the writ petitioner was not able to furnish any

details. It has to be held that the decree has to be put into execution and the decree holder is bound to get the property. The writ petitioner has succeeded staying in the property for the last eight years. Sufficient time is already granted. But being a rainy season, I feel, considering the age of the lady, a breathing time can be granted for vacating the premises and therefore, the executing court is directed to delivery the property to the decree holder on 23.7.2007. I make it clear that if the writ petitioner wants to get herself accommodated in the old-age home of the church and as the church authorities are willing, she can still take advantage of the same and stay in that rescue home. Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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